

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

SUMMARY

Housing and Environmental Standards Work Group April 21, 2015, 10:00 AM Senate Room A, General Assembly Building

I. Call to Order - Housing and Environmental Standards Work Group

Senator John Watkins, *Chair*, was absent. **Delegate Barry Knight** called the meeting to order at 10:00 AM.

Work Group members in attendance: Senator George Barker; Delegate David Bulova; Delegate Daniel Marshall; Delegate Barry Knight; Delegate Chris Peace; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Brian Buniva; Ron Clements, *Virginia Building & Code Officials Association*; Michael Congleton, *Fairfax County Planning Commission*; Tyler Craddock, *Manufactured & Modular Housing Association*; James R. Dawson, *Virginia Fire Prevention Association*; Sean P. Farrell, *Virginia Building & Code Officials Association*; John Hastings, *Virginia Housing Development Authority*; Erik Johnston, *Virginia Association of Counties*; John H. Jordan, *Manufactured Housing Communities of Virginia*; Ralston King, *Whitehead Consulting*; Art Lipscomb, *Virginia Professional Fire Fighters*; R. Schaefer Oglesby, *Virginia Association of Realtors*; Shaun Pharr, *Apartment and Office Building Association*; Ed Rhodes, *Virginia Fire Chiefs Association*; Emory Rodgers, *Department of Housing & Community Development*; Neal Rogers, *Virginia Housing Development Authority*; Michael L. Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*; Jerry M. Wright, *Central Virginia Chapter-Community Association Institute*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Asbestos (SB 299; Asbestos, Lead, and Home Inspectors; A. Ebbin, 2014)

- **Senator Adam Ebbin:** Two provisions in the bill are (i) that there be signage in both Spanish and English detailing how to complain about unsafe conditions and (ii) that there be a notice on asbestos mailed with certification cards written in both Spanish and English.
- **Charlie Jackson**, *Laborers Mid-Atlantic Region Organizing Coalition*: We support the recommendations and look forward to having additional protection for the asbestos workers.

- **Ebbin:** There is less onerous paperwork for this version, only requiring the employer to put up signage.
- **Senator George Barker:** Can you give a brief history of the bill?
 - **Ebbin:** This has passed the Senate unanimously for four years, and in the House for at least one year prior to that time. The primary objection was about the employers keeping the notice—now only the sign is required from the employer. The written notice comes from DPOR.
- **Barker:** This bill got referred out of committee to the Housing Commission?
 - **Ebbin:** Correct.
- **Mike Toalson, Home Builders Association of Virginia:** Have Associated General Contractors, Associated Builders and Contractors, or any home improvement contractors been notified this was on our agenda. Did they want to provide comments?
 - **Elizabeth Palen, Executive Director, VHC:** The meeting topic was posted online on the Legislative Calendar as well as the Virginia Housing Commission website. We also had a subcommittee meeting on this topic last year. The employer would only have to provide the signage, which would be developed by DPOR. I thought DPOR had agreed to put their signs in Spanish and English. Were they going to start implementing now?
 - **Ebbin:** I don't believe DPOR does the signage. There was no conclusion about putting signs in Spanish last year, but the overwhelming majority of workers speak Spanish as their first language.
- **Delegate Chris Peace:** Senate Bill 299 is from the 2014 Session. Do you have draft legislation that reflects the recommendations of the sub-work group?
 - **Ebbin:** I do not have draft legislation yet. I would make it very simple: signage is to be developed by the Department of Labor and Industry.
- **Peace:** The simplified version would meet with greater favor; Legislative Services could put together a draft that reflects what the sub-work group put together and what the patron requests.
 - **Ebbin:** Depending how long the meeting is, I can come up with some language now.
 - **Palen:** We will be here for a while.
 - **Ebbin:** I'll be back in an hour or so.
- **Toalson:** Is this only for employers who know of a presence of asbestos?
 - **Ebbin:** This would be for asbestos removal.

III. Underground Abandoned Oil Tanks and Septic Systems

Department of Health's Perspective

- **Lance Gregory, Environmental Health Coordinator, Office of Environmental Health, Virginia Department of Health:** The purpose of my presentation is to address concerns the Housing Commission has received regarding the ability of property owners, realtors,

and other stakeholders to locate records for the onsite sewage systems, or “septic systems,” and private wells.

- Section 32.1-164 of the Code of Virginia provides the Board of Health with control over the safe and sanitary collection and disposal of sewage by onsite sewage systems, and § 32.1-176.4 of the Code provides the Board with regulatory oversight for the location and construction of private wells, which includes collection of numerous records.
- Records for onsite sewage systems and private wells installed since 1982 are typically very well kept at local health departments; however, identifying records for every system installed prior to 1982 will require a significant investment in resources.
- Using U.S. Census data and information from VDH’s Virginia Environmental Information System (VENIS), more than one million homes are estimated to use both conventional onsite sewage systems and alternative onsite sewage systems (AOSS). Nearly 700,000 homes are served by private wells in the Commonwealth. VDH estimates that there are 2.75 million hard copy records on file at local health departments, which include files for installed systems, permit denials, subdivision approvals, etc.
- Record quality is related to the timeframe in which the record was created. The pre-1982 records account for 58% of installed onsite sewage systems and 67% of installed private wells. However, records from this timeframe can be very difficult to find and will typically only include the general location of where the system was proposed to be installed. Regulations for onsite sewage systems were not promulgated until around 1968.
- Records from 1982 through 2003 account for about 25% of installed onsite sewage systems and 22% of installed private wells. There was a vast improvement in recordkeeping for onsite sewage systems and private wells after the Board of Health revised regulations in 1982. These files can typically be found, and onsite sewage system records include property identification, inspection records, and a location map of the system. Private well records prior to 1990 will include only the proposed location and proposed well class, but records from 1990 and later will include a Uniform Well Water Completion Report.
- Records from 2003 to present account for 17% of installed onsite sewage systems and 11% of installed private wells, and all records are readily accessible in the VENIS database. Onsite sewage system records will include extensive property identification, a scale construction permit drawing and “as-built” drawing, an inspection record, and records to identify the capacity of the system. Well records will have a Uniform Well Water Completion Report.
- The agency’s goal is to have at least the general location of every onsite sewage system and private well in a publicly available database, along with the critical system component information. One option would be for VDH staff to enter all hard copy records into the VENIS database; however, this would require 850,000 staff hours and \$15 million in staff cost.

- A second option would be to hire a third party to scan all records. This would still make it difficult to identify records prior to 1982, as identifying information would not be added as part of the scanning process. The cost is also an issue at a projected \$1,375,000.
- A third option would be to create a property transfer inspection and reporting program. If a mandate was established to provide an inspection at the time of sale from someone qualified to perform the work, then that record could be provided to VDC, trusted, and entered into the electronic database for future use and consideration for buyers and sellers. One hurdle is cost to the consumer, who would have to pay for the inspection. Second would be finding enough adequately trained persons to provide such work. And third, dealing with the policy issues related to accepting older, nonconforming systems would be profound.
- A fourth option would be to ask localities to share any information they receive regarding onsite sewage systems or private wells. Many localities within the Chesapeake Bay Watershed require a five-year pump out of conventional onsite sewage systems.
- **Mark Flynn, Governor Appointee:** Are the pump-out records done by a septic company? Do they provide a report on the systems?
 - **Gregory:** They can do a pump-out, inspect the system, or both.
- **Flynn:** So a five-year pump-out does not necessarily require a septic system and compliance report?
 - **Gregory:** Correct.
- **Toalson:** Is there a requirement for records from a pump out to be sent to the Virginia Health Department? Reports of the general area of the pump out may be a way to update records.
 - **Gregory:** With conventional systems there is no reporting requirement, but there is a requirement for alternate systems. In the Chesapeake Bay Watershed, the pump out would be reported but not the location.
- **Knight:** Does the Health Department have any suggestions? Getting the funds required for some of your options seems challenging.
 - **Gregory:** These were some options we feel are available, but we are open to suggestions.
- **Knight:** Is there anything mandated to the state from the federal government like, say, the EPA on the Chesapeake Bay model?
 - **Gregory:** We need to know the location and need to report on any BMP's that are installed.
- **Palen:** Chip Dicks could not be here today, but in his letter he discussed abandoned tanks. Searching for permits for septic tanks and oil tanks can be very challenging, and the realtors would like there to be a uniform search method for these permits across the state.

- **Gregory:** We don't have regulatory authority regarding reporting on those. Abandoned tanks generally have older records, which are difficult to identify.
- **Joe Lerch, *Director of Environmental Policy, Virginia Municipal League:*** Dealing with Chip Dick's letter: Abandoned septic tanks are a pre-1982 issue. Option three, regarding property transfer inspection, the realtors want no more disclosure requirements in these deed transfers. Regarding option four, with local government reporting, we would love to work more with VDH and local governments. A clearer understanding of the scope of the problem identified by the realtors is needed.
 - In terms of Chesapeake Bay modeling, there was a problem with information not being up to date. Information gathered from localities and VDH can help give better information to the model.

Realtors' Perspective

- **Gordon Dixon, *Hampton Roads Realtors Association:*** Realtors are concerned about the abandoned tanks but also recognize cost constraints. How the abandoned tanks are identified is the problem. The realtors hope to use a universal method of identification, like a tax ID number, going forward.
- **Toalson:** I see complications from a mandatory inspection of a septic system as part of a sales transaction. Comments on how that could complicate real estate sales?
 - **Dixon:** That would be problematic. Deciding who should perform the inspection is a huge issue. There is a huge liability issue if that person makes a mistake. There is the public disclosure statement, which does address septic systems. It is up to the buyers to perform their due diligence to inspect what is on their property, and it is not up to the agent.
- **Toalson:** Records of five-year pump-outs go to the locality, which are shared with the Health Department. Is the location of the tank included in that?
 - **Gregory:** No, typically with pump out the health department only gets a record of the bill; the actual location of the tank and components are not included. An inspection in lieu of a pump out may include that information.
- **Erik Johnston, *Virginia Association of Counties:*** A homeowner may ask the health department for the history of pump-out record, and from that information determine if a system has been well maintained. Is that the case in areas that have that pump-out requirement?
 - **Gregory:** It depends on where those records are maintained. In some areas those records are with the health department and in others it is with the county or is shared between local government and the local health department.
- **Toalson:** This pump-out information may help us identify abandoned tanks in the future.
- **Knight:** A buyer can ask the seller to do whatever he wants. The buyer can ask the seller for a septic tank inspection at his discretion.
- **Flynn:** Don't most lending institutions require a report on a septic system before you can buy a house?

Proposed legislation discussed earlier was brought forward from Senator Ebbin.

- **Knight:** We'll look at this again at our next meeting.

IV. Public Comment

- **Delegate Knight** asked if there was anyone who wished to offer any public comment.

V. Adjourn

- Upon hearing no request to comment, **Delegate Knight** adjourned the meeting at 11:00 AM.